



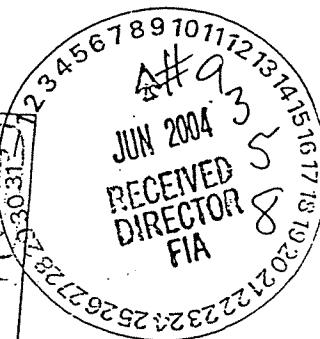
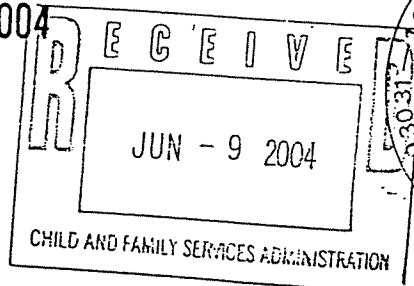
Department of Health and Human Services
Administration For Children and Families
Region V

Illinois • Indiana • Michigan • Minnesota • Ohio • Wisconsin

233 North Michigan Avenue, Suite 400
Chicago, Illinois 60601-5519

Telephone (312) 353-4237
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JUN 02 2004



Marianne Udow, Director
Michigan Family Independence Agency
235 South Grand Avenue
P. O. Box 30037
Lansing, Michigan 48909

Dear Director Udow:

3

This is a follow-up to a letter I sent June 20, 2003, regarding a contradiction between Federal regulations and Michigan's policy and legislation pertaining to adoption assistance eligibility requirements for children who are eligible for Supplemental Security Income (SSI). For informational purposes, I am enclosing a copy of this letter as well as your Agency's responses. In essence, while Federal legislation and regulations deem a child eligible for adoption assistance if, at the time the adoption petition is filed, the child meets the requirements for title XVI SSI benefits, and prior to the finalization of the adoption is determined by the State to be a child with special needs, Michigan policy and legislation continue to require a stay in foster care as a prerequisite for adoption assistance eligibility for all children, including those meeting the SSI eligibility requirement.

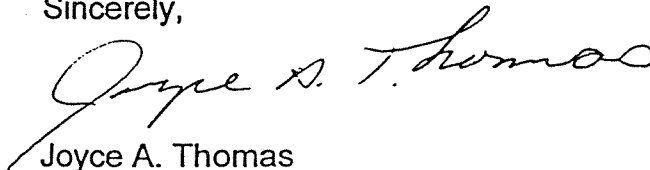
It is our understanding that draft legislation has been developed but has not yet been introduced. Due to the length of time this discrepancy has been in existence, we are requesting that Michigan develop an update to its strategy addressing this discrepancy and tender it to my office within 90 days. We ask that all relevant changes, required by new statutes, rules, regulations, interpretations, and court decisions, be shared with the Administration for Children and Families (ACF) to determine whether the plan meets Federal requirements and policies. Also, from a practice standpoint, consideration should be given to eligibility decisions that were affected for those children who should have been eligible for benefits under Federal regulations. Provisions at 45 CFR 1355.32(d)(4) authorize ACF to require the State to enter into a program improvement plan relative to title IV-B or title IV-E compliance issues that may result in a penalty if the State remains out of compliance with the State Plan requirement under scrutiny.

We are optimistic that we can resolve this discrepancy expediently and satisfactorily. Barbara Putyra of my staff is available to work with your staff on this matter. Ms. Putyra

Page 2 – Director Udow

can be reached at 312-353-1786 or via email at bputyra@acf.hhs.gov. Also, should Michigan desire technical assistance from one of our National Child Welfare Resource Centers, Ms. Putyra can facilitate this request.

Sincerely,

A handwritten signature in cursive script, reading "Joyce A. Thomas". The signature is written in dark ink and is positioned above the printed name and title.

Joyce A. Thomas
Regional Administrator

Enclosure

cc: Laura Champagne, Chief Deputy Director,
Longino Gonzales, Acting Deputy Director, Children's Services
William Johnson, Acting Adoptions Manager

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MAY 13 2005

Marianne Udow, Director
Michigan Department of Human Services
235 South Grand Avenue
Lansing, Michigan 48909



Dear Director Udow:

This is in response to your letter regarding Adoption Assistance relative to children who are eligible for Supplemental Security Income (SSI) at the time the adoption petition is filed and meet the definition of special needs. As cited in your correspondence, we had requested that Michigan develop a Program Improvement Plan to address inconsistencies in State statute and policy with title IV-E of the Social Security Act, specifically Sections 471(a), 473(a)(2) & 473(c). Specifically, Michigan eligibility requirements included a stay in foster care for these children.

A discussion with William Johnson of Michigan's Adoption Program Office on February 3, 2005 revealed that Michigan statute and policy have been revised. Upon review of the revisions, we are in agreement that Michigan statute and policy are now in compliance with the Federal requirements pertaining to adoption assistance eligibility requirements for children who are SSI eligible and meet the definition of special needs. Therefore, we concur that a Program Improvement Plan to address this issue is no longer required.

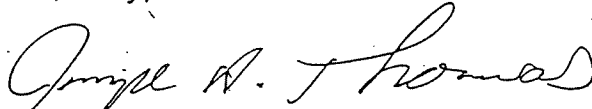
During the course of the discussion a question emerged concerning Michigan's policy on independent adoptions and how it applied to and was implemented in regard to children who are SSI eligible. If a child is SSI eligible at the time the adoption petition is filed and is determined to be a child with special needs, the State may not apply any further requirements or restrictions to the child's eligibility for title IV-E adoption assistance. Michigan policy indicates that independent adoption/direct placement adoptions are ineligible for an adoption support subsidy. We agreed that Mr. Johnson would further research the policy and its implementation in practice to determine if it is affecting eligibility for this population and, if so, work to resolve the matter. We would like to learn the results of Michigan's follow-up in this matter no later than June 30th.

Hanley - due 6/24/05, Sorbet

age 2 - Director Udow

We understand that Kate Hanley is now the Adoptions Manager for Michigan as Mr. Johnson has assumed the responsibilities of Superintendent of the Michigan Children's Institute. Should Ms. Hanley or any of your staff have questions or need assistance please have them contact Barbara Putyra at 312-353-1786.

Sincerely,



Joyce A. Thomas
Regional Administrator

cc: Laura Champagne
William Johnson
Kate Hanley

*all we brought
kept back*



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JUN 03 2003

Nannette Bowler, Director
Michigan Family Independence Agency
235 South Grand Avenue
P. O. Box 30037
Lansing, Michigan 48909

Dear Director Bowler:

We want to bring to your attention a contradiction between Federal regulations and Michigan's policy and legislation pertaining to adoption assistance eligibility requirements for children who are eligible for Supplemental Security Income (SSI). According to the Social Security Act - sections 473(a)(2) and 473(c), a child is eligible for adoption assistance if, at the time the adoption petition is filed, the child meets the requirements for title XVI SSI benefits, and prior to the finalization of the adoption is determined by the State to be a child with special needs. There are no additional criteria that a child must meet to be eligible for title IV-E adoption assistance when eligibility is based on a special needs child meeting SSI requirements. Specifically, how a child is removed from his or her home or whether the State has responsibility for the child's placement and care is irrelevant in this situation.

It is our understanding that current Michigan policy and legislation continues to require a stay in foster care as a prerequisite for adoption assistance eligibility for all children, including those described in the previous paragraph. State legislation effective on December 23, 2002 (Senate Bill 1505) removed the requirement of a four month stay in foster care but continues to require that the adoptee be in foster care at the time the department (FIA) certifies the support subsidy. Current Michigan policy (CFS 750, dated 8-1-2002) delineates that the child must have been in foster care for at least four months immediately prior to the certification request as an eligibility requirement for adoption assistance. We are aware that Michigan policy is being revised to reflect the December legislative change.

To remain eligible to receive Federal financial participation (FFP) in the costs of adoption assistance, a State must have a State plan approved by the Secretary that meets the requirements of 45 CFR 1355, 1356 and section 471(a) of the Social Security Act. Therefore, in accordance with these requirements, we are requiring that the State amend its State Plan to be in conformity with Federal regulations, specifically Section 4. Adoption Assistance Payments.

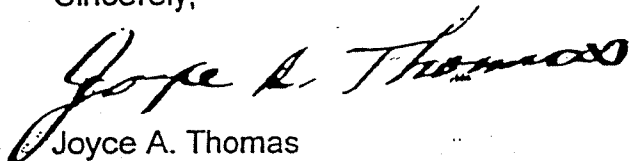
Also, from a practice standpoint, consideration should be given to eligibility decisions that were affected for those children who should have been eligible for benefits under federal regulations.

Federal regulations at 45 CFR 1355.32(d)(4) delineate the mechanism that has been instituted to address title IV-B or title IV-E compliance issues. It authorizes ACF to require the State to enter into a program improvement plan that may result in a penalty if the State remains out of compliance with the State plan requirement under scrutiny (in this case, 471(a)(1)).

All relevant changes, required by new statutes, rules, regulations, interpretations, and court decisions, are to be shared with ACF to determine whether the plan continues to meet Federal requirements and policies.

Barbara Putyra of my staff is available to work with your staff on this matter. Ms. Putyra can be reached at 312-353-1786 or via email at bputyra@acf.hhs.gov. Also, should Michigan desire technical assistance from one of our National Child Welfare Resource Centers, Ms. Putyra can facilitate this request.

Sincerely,



Joyce A. Thomas
Regional Administrator

cc: Donna Mullins, Deputy Director, Service Delivery Administration
Jean Hoffman, Manager, Child and Family Service Administration
Bill Jackson, Acting Manager, Children and Family Service Administration



Department of Health and Human Services
Administration For Children and Families
Region V

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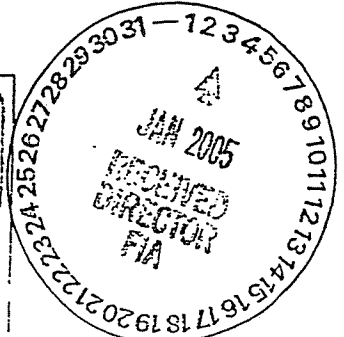
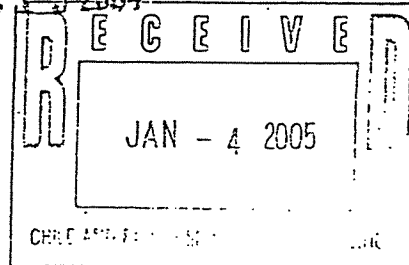
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Marianne Udow, Director
Michigan Family Independence Agency
235 South Grand Avenue
P. O. Box 30037
Lansing, Michigan 48909

DEC 15 2004



Dear Director Udow:

Thank you for your letter of August 5, 2004 in which you expressed your commitment in working with the State legislature and our office to provide that Michigan law allows children who are eligible for Supplemental Security Income (SSI) at the time of adoption to be eligible for title IV-E adoption assistance. While we appreciate your proposal to satisfy the Administration for Children and Family's (ACF) concerns by amending State rules to remove the criteria that a child must be in foster care at the time of adoption in order to be eligible for adoption assistance, we are in need of further specifics concerning the proposal.

In our correspondence to Michigan dated June 3, 2003, we advised that to remain eligible to receive Federal financial participation (FFP) in the costs of adoption assistance, a State must have a State Plan approved by the Secretary that meets the requirements of 45 CFR 1355, 1356 and section 471(a) of the Social Security Act. At that time we required that Michigan amend its State Plan to be in conformity with Federal regulations, specifically Section 4. Adoption Assistance Payments. We further related that Federal regulations at 45 CFR 1355.32(d)(4) delineate the mechanism that has been instituted to address title IV-B or title IV-E compliance issues. It authorizes ACF to require the State to enter into a Program Improvement Plan that may result in a penalty if the State remains out of compliance with the State Plan requirements under scrutiny (in this case, 471(a), 473(a)(2) & 473(c)). At that time we understood that State legislation effective December 23, 2002 removed the requirement of a four month stay in foster care but continued to require that the adoptee be in foster care at the time the Family Independence Agency (FIA) certified the support subsidy. Michigan policy on subsidy eligibility requiring a four month stay in foster care that was in effect at the time the 2002 legislation was enacted has not been revised to reflect that change.

In our June 2, 2004 correspondence we requested an update to Michigan's strategy in addressing the discrepancy. Even though statutory changes bringing Michigan's Social Welfare Act into compliance with the Social Security Act cited in Michigan's response

Page 2 – Marianne Udow, Director

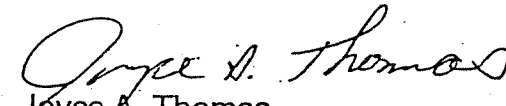
have been proposed and referred to the Senate Committee on Families and Human Services, we are requesting that Michigan develop a formal Program Improvement Plan (PIP) in conjunction with our office that reflects the State's intent to modify its laws and policies to be consistent with the Social Security Act and ACF policy guidance.

This longstanding issue must be resolved as soon as possible. Please submit the PIP within 30 days of receipt of this letter to my office, including specific action steps with timeframes identified to make the necessary modifications. The PIP should include for review by ACF a draft of specific rules and procedures that will be proposed prior to their implementation to determine their consistency with Federal requirements and policies.

ACF will not actively seek retroactive payments, consistent with Federal regulations at 45 CFR 1355.32(d)(4), which allow the State an opportunity for the development and implementation of a PIP. If Michigan remains in non-conformance, the State will be subject to a penalty related to the extent of noncompliance. Additionally, we cannot negate the possibility that Michigan could be sued by families who allege that they should have received adoption assistance payments but did not.

If there are any questions, please have one of your staff contact Barbara Putyra at (312) 353-1786.

Sincerely,


Joyce A. Thomas
Regional Administrator

cc: Longino Gonzales
William Johnson